of interpleader. *Held*, that the highest bidder is entitled to the vessel. *United States* v. *Levinson*, 267 Fed. 692 (C. C. A.).

It is not an unreasonable interpretation of the facts that the Secretary was by law bound to sell to the highest bidder. Under this view, the case is supportable on the proposition that those who deal with public officers are presumed to know the extent of their authority. See *Filor* v. *United States*, 9 Wall. (U. S.) 45; *Dement* v. *Rokker*, 126 Ill. 174, 199. Under a different view, namely, that the President's order allowed the Secretary to select the buyer at his discretion, the case might raise the question whether a sovereign is subject to estoppel *in pais*. While estoppel by deed or by record may be set up against the sovereign, the courts are reluctant to allow equitable estoppel. See 19 HARV. L. REV. 126. In strong enough cases, however, it has been held that considerations of justice between the immediate litigants might override the argument of public policy and estoppel *in pais* be allowed. *Walker* v. *United States*, 139 Fed. 409. It is submitted that the essence of estoppel is unfairness to one party, and if it is to be allowed against the sovereign at all, it is unsound to distinguish between degrees of unfairness or kinds of estoppel. Only where the application of the doctrine would impair an inherent sovereign attribute of the state should the state be free from its operation. See *Chicago, etc. Ry. Co.* v. *Douglas County*, 134 Wis. 197, 114 N. W. 511.

FALSE PRETENSES — PROMISE MADE WITH INTENT NOT TO KEEP AS A MISREPRESENTATION OF FACT. — The defendant obtained money from farmers in supposed payment for groceries, by declaring that he would immediately send in their orders to the wholesale grocers whom he represented, for filling and shipment by them. The defendant never sent in the orders, and absconded with the money. Evidence was admitted to show that he had never intended to send them in, and he was convicted of obtaining money by false pretenses. *Held*, that the conviction be reversed. *Helsey* v. *State*, 193 Pac. 50 (Okla.).

A false statement as to one's intention is a misrepresentation of fact sufficient to serve as the basis of an action for fraud. *Edgington* v. *Fitzmaurice*, 29 Ch. D. 459; *Adams* v. *Gillig*, 199 N. Y. 314, 92 N. E. 670. Furthermore the making of a promise which the promisor, at the time of making, does not intend to keep, is held to be a misrepresentation of his intention, for the purposes of a civil action. *Langley* v. *Rodriguez*, 122 Cal. 580, 55 Pac. 406; *Sallies* v. *Johnson*, 85 Conn. 77, 81 Atl. 974. For the purposes of the criminal law, some courts have taken the first step, and have declared a misrepresentation of intention to be sufficient basis for a prosecution for obtaining money by false pretenses. *State* v. *Dowe*, 27 Ia. 273; *State* v. *Cowdin*, 28 Kan. 269. See *Queen* v. *Gordon*, 23 Q. B. D. 354, 360. The criminal courts have hesitated, however, to hold that a promise not intended to be kept is a misrepresentation of fact. *Commonwealth* v. *Althause*, 207 Mass. 32, 93 N. E. 202. But see *Regina* v. *Jones*, 6 Cox C. C. 467, 469. The reason is, probably, the fear of a tendency to regard every promise subsequently broken, as having been made with an intention not to keep it. But this would seem to be sufficiently guarded against by the requirement, in criminal cases, of proof beyond a reasonable doubt. The civil cases show that a false statement of this sort is as dangerous to the general security of transactions as any other false representation. Only a very narrow interpretation of the criminal statutes has let it go unpunished.

ILLEGAL CONTRACTS — CONTRACTS AGAINST PUBLIC POLICY — AGREEMENT TO ARBITRATE ALL DIFFERENCES — EXECUTED AWARD. — A contract provided that all disputes arising under it should be settled by submission to arbitrators. Disputes so arising were submitted and an award granted. In an action to enforce the award the defendant contends that the contract provision and hence the award is invalid as ousting the jurisdiction of the

courts. *Held*, that the award is unenforceable. *Conant* v. *Arsenault*, 111 Atl. 578 (Me.).

By the overwhelming weight of authority an unexecuted agreement to arbitrate all claims arising out of a contract will be no bar to an action on the contract, as the agreement ousts the jurisdiction of the courts. *Thompson* v. *Charnock*, 8 T. R. 139; *Bauer* v. *International Waste Co.*, 201 Mass. 197, 87 N. E. 637; *Williams & Bro.* v. *Branning Mfg. Co.*, 154 N. C. 205, 70 S. E. 290. This rule seems based on the ancient desire of the courts to get and keep jurisdiction, and has not escaped criticism. See *Scott* v. *Avery*, 5 H. L. C. 811, 852; *United States Asphalt Refining Co.* v. *Trinidad Lake Petroleum Co.*, 222 Fed. 1006, 1007; see also 3 WILLISTON, CONTRACTS, §§ 1719, 1724. Statutes show that public policy now favors such arbitration agreements. See NEW YORK, COD. CIV. PROC. § 2366; ARBITRATION ACT, 52–53 VICT. c. 49. But at all times when the arbitration has been followed by an award, the award has bound the parties and has operated to merge the cause of action, thus barring further claims on the contract. *Burchell* v. *Marsh*, 17 How. (U. S.) 344; *Kidwell* v. *Baltimore & O. R. R. Co.*, 11 Gratt. (Va.) 676. This is so even if the arbitrators decide on a pure question of law, a clear ousting of the court's jurisdiction. *Ching* v. *Ching*, 6 Ves. Jr. 282; *Steff* v. *Andrews*, 2 Madd. 6. The principal case by denying recovery on an executed award is squarely opposed to reason, authority, and business convenience. The case if followed would mean that the parties could speculate at will on an award, accepting or rejecting it as its result proved favorable or not.

INFANTS — UNBORN CHILDREN — RIGHTS OF UNBORN CHILDREN IN THE LAW OF TORTS. — While the plaintiff was *en ventre sa mère*, his mother fell into a coal hole, negligently left unguarded by the defendant. Thereby the plaintiff was injured for life, and after birth sues for damages. *Held*, that the defendant's demurrer be overruled. *Drobner* v. *Peters*, 184 N. Y. Supp. 337.

For a discussion of the principles involved in this case, see NOTES, p. 549, *supra*.

INTERNATIONAL LAW — PRIZE — CARGO OF NEUTRAL VESSELS. — A cargo of magnesite was sold to the Dutch claimants by a corporation organized in Holland, but controlled by German shareholders. One half the purchase price was paid, and all risk of loss including loss by capture was to be borne by the purchasers. But if the goods should on inspection prove unsuitable for their business they could refuse to accept them. While en route to Holland in Dutch vessels, the cargo was seized by the British. *Held*, that the cargo is lawful prize. *The Vesta*, [1920] P. 385.

Under the modern English view the character of a corporation is determined by the nationality of its shareholders. *Daimler Co.* v. *Continental Tyre & Rubber Co.* [1916] 2 A. C. 307; *The Hamborn*, [1919] A. C. 993. Hence in order to defeat the right of prize it was necessary for the vendor to divest itself of all right, title, and interest in the goods. *The Ariel*, 11 Moo. P. C. 119. See 7 MOORE, DIG. INT. LAW, § 1184. Under the contract of sale by which all right to the goods and all risk of loss passed to the buyer, it is difficult to find a beneficial interest reserved in the seller. The mere right of the buyer to disclaim did not reserve an interest in the goods to the seller, since under the agreement there could be no disclaimer unless the goods were unsatisfactory, and then only at the option of the buyer. But even though the court's decision had been correct that an interest in the goods was reserved in the seller, the goods should nevertheless be protected since they were being transported in neutral vessels and were not contraband. See "Declaration of Paris," 7 MOORE, DIG. INT. LAW, § 1195. The only justification for the decision, therefore, is that the goods were made lawful prize by the English Reprisal Orders. See "Orders in Council,"